

Application No. 09/771,906
Amendment dated January 27, 2005
Reply to Office Action 27, 2004

REMARKS/ARGUMENTS

In the Office Action mailed on July 27, 2004, the Examiner rejected claims 13 and 14 under 35 U.S.C. § 112, second paragraph, as indefinite. Applicants respectfully submit that some typing (scanning) errors appeared in the published application. In the originally filed application, there was "traffic" and not "tic" in claims 13 and 14, and "moved" in Claim 28. The typos are corrected in the claims as amended above.

Further the Examiner rejected independent claims 1 and 17 and dependent claims 2-9, 11-2, 18-23, 25, 27-30 and 31 as being unpatentable over *Lyles et al.* (USPN 5,926,459) in view of *Ahmed et al.* (USPN 5,945,346), and claims 15-16 and 32-33 as unpatentable over *Lyles et al.* (USPN 5,926,459) in view of *Ahmed et al.* (USPN 5,945,346) and *Pastenak et al* (USPN 5,936,949).

Applicants amended claims 1-33 in order to clarify the subject matter of the application. In making these revisions care has been taken to ensure that no new matter has been added.

Applicants appreciate the time and consideration provided by the Examiner in reviewing this application and for considering claims 8, 10, 24 and 26 to be allowable, however, respectfully traverse the rejections of the rest of the claims at least for the following reasons.

Applicants respectfully submit that the combination of the features as claimed in the amended independent claims 1, 17, 31-33 is novel and non-obvious over the cited references, while the amended features are fully supported by the description.

Rejection under 35 U.S.C. §103(a)

According to MPEP 706.02(j):

"To establish a *prima facie* case of obviousness... the prior art reference (or references when combined) must teach or suggest all claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on the applicant's disclosure."

The present application is directed to a system and method for shaping a packet-switched traffic containing fixed size traffic elements (e.g., data cells in asynchronous

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transfer mode (ATM) traffic). The improved accuracy, support of large number of connections and other positive effects described in the certain embodiments of the present invention are achieved by amplifying the traffic parameters by a factor K prior to input to the scheduler, wherein the scheduler and calendar being adapted to operate using the amplified parameters.

The technique disclosed in of US '459 (*Lyles et al.*), as correctly pointed by the Examiner, does not contain amplifying of the traffic parameters by a factor K and has neither indication no suggestion as to any need of adaptation of the scheduler and calendar to operate using amplified parameters.

US '346 (*Ahmed et al.*) discloses wireless communication system using a power control command to control power of a transmitted traffic channel. The US '346 contains neither indication as to any shaping of packet-switched traffic nor it deals with accuracy of traffic-rate related parameters, as recited in amendment claims. The technique of US '346 is related to a field and aimed at a purpose different from that of the present invention and accordingly utilizes different system and method implementations.

None of the cited prior art references, US '459, US '346 and US'949 provide motivation to combine them to arrive to the claimed invention including the use of amplification of traffic-rate related parameters by factor K in a context of traffic shaper for use in a packet-switching communication system. Moreover, a combination of the techniques disclosed in the cited prior art references does not result in the claimed invention. In particular, the applicants respectively submit that the motivation elaborated by Examiner, namely "*... to combine the references because in many wireless communication systems and, especially, in cellular communication systems, it is important to control the transmitted power of traffic in order to reduce the co-channel interference....Therefore , it is design goal to transmit a traffic signal with only an amount of power necessary to provide acceptable signal quality at receiver...*" will not lead to combination of the cited prior art references.

Thus, the cited prior art references which are clearly teach away from the present application. Moreover, neither the problem nor the solution disclosed in the present application can be learned from the cited prior art references, alone and in combination.

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Therefore, the independent claims 1, 17, 31-33 are patentable over the cited references, and the dependent claims 2-16 and 18-30 should be deemed patentable over the cited references, *inter alia*, for reasons elaborated above.

Applicants respectfully submit that all the pending claims as amended by this response are allowable, and the application is now in condition for allowance, which allowance is earnestly solicited.

The Commissioner is hereby authorized to charge any fees, which may be required in connection with this correspondence, to Deposit Account No. 06-1135.

Respectfully submitted,

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